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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 MITCHELL KEITH GOODRUM,

Case No. 3:20-cv-00542-MMD-WGC

7 Plaintiff,

ORDER

8 v.

9 OVERLAND HOTEL AND CASINO, *et al.*,

10 Defendants.

11 *Pro se* Plaintiff Mitchell Keith Goodrum brings this action under 42 U.S.C. § 1983.
12 Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of
13 United States Magistrate Judge William G. Cobb (ECF No. 4), recommending the Court
14 grant Goodrum’s application to proceed *in forma pauperis* (ECF No. 3), file Goodrum’s
15 complaint (ECF No. 1-1), dismiss his § 1983 claims with prejudice, and dismiss his state
16 law negligence claim without prejudice so that Goodrum may refile in state court.
17 Goodrum had until April 22, 2021 to file an objection. To date, no objection to the R&R
18 has been filed. For this reason, and as explained below, the Court adopts the R&R, and
19 will grant the application to proceed *in forma pauperis*, file the Complaint, and dismiss all
20 Goodrum’s claims.

21 The Court “may accept, reject, or modify, in whole or in part, the findings or
22 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
23 fails to object to a magistrate judge’s recommendation, the Court is not required to
24 conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas*
25 *v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114,
26 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and
27 recommendations is required if, but *only* if, one or both parties file objections to the
28 findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory

1 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no
2 clear error on the face of the record in order to accept the recommendation.”).

3 Because there is no objection, the Court need not conduct de novo review, and is
4 satisfied Judge Cobb did not clearly err. Here, Judge Cobb first recommends the Court
5 grant Goodrum’s application to proceed *in forma pauperis* because Goodrum has
6 demonstrated he cannot pay the initial filing fee. (ECF No. 4 at 3.) Judge Cobb next
7 recommends that Goodrum’s § 1983 claims be dismissed with prejudice as to all
8 defendants because the Overland Hotel and Casino, David Barkley, and Deanna Douglas
9 are not public actors, but were working privately as a business at all times relevant to this
10 case. (*Id.* at 5.) Because no amendment would cure the fact that Goodrum cannot bring
11 § 1983 claims against these defendants, Judge Cobb recommends dismissing those
12 claims with prejudice and without leave to amend. (*Id.*) To the extent Goodrum wishes to
13 pursue his negligence theory, Judge Cobb recommends the Court dismiss the state law
14 claim without prejudice so that Goodrum may do so in state court. (*Id.*) The Court agrees
15 with Judge Cobb. Having reviewed the R&R and the record in this case, the Court will
16 adopt the R&R in full.

17 It is therefore ordered that Judge Cobb’s Report and Recommendation (ECF No.
18 4) is accepted and adopted in full.

19 It is further ordered that Goodrum’s application to proceed *in forma pauperis* (ECF
20 No. 3) is granted. Goodrum will not be required to pay an initial installment fee.
21 Nevertheless, the full filing fee will still be due, pursuant to 28 U.S.C. § 1915, as amended
22 by the Prison Litigation Reform Act. The movant herein is permitted to maintain this action
23 to conclusion without the necessity of prepayment of fees or costs or the giving of security
24 therefor.

25 It is further ordered that, pursuant to 28 U.S.C. § 1915, as amended by the Prison
26 Litigation Reform Act, the Nevada Department of Corrections will forward payments from
27 the account of Mitchell Goodrum, #1213846, to the Clerk of the United States District
28 Court, District of Nevada, 20% of the preceding month's deposits (in months that the

1 account exceeds \$10.00) until the full \$350 filing fee has been paid for this action. The
2 Clerk of the Court will send a copy of this order to the Finance Division of the Clerk's
3 Office. The Clerk will send a copy of this order to the attention of Chief of Inmate Services
4 for the Nevada Department of Corrections, P.O. Box 7011, Carson City, NV 89702.

5 It is further ordered that, even if this action is dismissed, the full filing fee still will
6 be due pursuant to 28 U.S.C. §1915, as amended by the Prison Litigation Reform Act.

7 The Clerk of Court is directed to file the complaint (ECF No. 1-1).

8 It is further ordered that Goodrum's § 1983 claims are dismissed with prejudice
9 and without leave to amend.

10 It is further ordered that Goodrum's negligence claim is dismissed without
11 prejudice so that he may raise the claim in state court.

12 The Clerk of Court is directed to enter judgment accordingly and close this case.

13 DATED THIS 3rd Day of May 2021.

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17 MIRANDA M. DU
18 CHIEF UNITED STATES DISTRICT JUDGE
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